

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION**

WRIT PETITION NO.517 OF 2007

Shri. Appasaheb C. Raut. ..Petitioner.
Vs.
The Dy. Director of Education Pune
and ors. ..Respondents.

Mr.S.G.Kudle for the Petitioner.

Mr.C.R. Sonawane, AGP. for the Respondent Nos.1 & 4.

Mrs. Meena Doshi for the Respondent Nos.2 & 3.

**CORAM: S.B. MHASE &
R.S. MOHITE, JJ.
DATE : 16th April, 2007**

P.C.

1. Heard.

2. Rule. Rule returnable forthwith.

3. The petitioner has been appointed as a full time teacher when the post was created as a result of the promotion of one Mr. S.D. Gokhale as Assistant Head Master. Earlier to his promotion, there was only clock hour work load available and on that clock hour workload one Mrs. Snehal Joshi was working. However, when the substantive post became available, instead of clock hour or part time basis, the Management advertised the said post and in that post, the petitioner was appointed. In this situation, Mrs. Snehal Joshi claimed the said post

on the ground that she being the part time teacher earlier on that post, she should have been absorbed by the Management on the said post. Therefore, she filed an appeal before the School Tribunal being Appeal No.130/2002. That appeal was allowed and reinstatement was granted in favour of Mrs. Snehal Joshi. That was challenged by the petitioner by filing Writ Petition No.6710 of 2004. The Management also filed a Writ Petition bearing W.P. No.7398 of 2004. Both these petitions were heard together by the learned Single Judge of this Court on 23.11.2006 and the order passed by the School Tribunal has been set aside and the matter has been remanded back. Under these circumstances, the petitioner is working. However, his services are not approved. His salary in the scale has not been paid. We find, under these circumstances, the following order to be appropriate.

3. We find that the claim of the petitioner to the said post is dependant upon the decision of the School Tribunal in Appeal No.130 of 2002. However, till the disposal of that appeal, the Management can submit the proposal for approval of the respondent- Education Officer making it subject to the decision of the said appeal and without prejudice to the rights of Mrs.Snehal Joshi and the rights of the Management. Therefore, we direct the Management-Respondent Nos. 2 and 3 to submit

the proposal of the petitioner for approval of the respondent Nos. 1 and 4 subject to the rights of the Management and subject to the rights of Mrs. Snehal Joshi in Appeal No.130 of 2002. We further direct the respondent Nos.1 and 3 to consider the said proposal for approval of the service of the petitioner subject to the decision of Appeal No.130 of 2002 and the rights of the Management. With these directions, petition is disposed of.

4. The proposal shall be submitted within a period of two weeks from today by the Management and the Education Officer shall take the appropriate decision on the said proposal within a period of 4-weeks thereafter.

(R.S. MOHITE, J.)

(S.B. MHASE, J.)